

## **EXHIBIT 1**

### **INTRODUCTION**

Respondent Maribel De La Torre (“De La Torre”) was a successful candidate for the San Fernando City Council in the March 6, 2001 election. She was reelected on March 8, 2005 and is currently a member of the council. Respondent Families for Maribel De La Torre (“Committee”) was Respondent De La Torre’s controlled committee. Steven Veres served as Respondent Committee’s treasurer from approximately October 2000 through January 2004. Oscar E. Jimenez was the treasurer of Respondent Committee from approximately July 1, 2004 through at least September 2, 2005.

The Political Reform Act (the “Act”)<sup>1</sup> requires a candidate to file a statement of intention to run for a specific office before soliciting or receiving any contributions for that office. The Act also requires a candidate and his or her controlled committee to file periodic campaign statements and to accurately disclose specified information on those campaign statements. In this matter, Respondent De La Torre failed to file a statement of intention to be a candidate for city council in the March 2005 election before soliciting or receiving contributions for that office, failed to timely file six semi-annual campaign statements, and failed to disclose required contributor and expenditure information.

For purposes of this Default Decision and Order, Respondents’ violations of the Act are as follows:

**COUNT 1:** Respondents Maribel De La Torre and Families for Maribel De La Torre failed to file a semi-annual campaign statement for the reporting period February 18, 2001 through June 30, 2001, by the July 31, 2001 due date, in violation of section 84200, subdivision (a).

**COUNT 2:** Respondents Maribel De La Torre and Families for Maribel De La Torre failed to disclose occupation and employer information for the six individuals who contributed \$100 or more, in a semi-annual campaign statement for the reporting period February 18, 2001 through June 30, 2001, filed on October 12, 2001, in violation of section 84211, subdivision (f).

**COUNT 3:** Respondents De La Torre and Families for De La Torre failed to disclose required information for seven persons who contributed

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<sup>1</sup> The Political Reform Act is contained in Government Code sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in sections 18109 through 18997 of title 2 of the California Code of Regulations. All regulatory references are to title 2, division 6 of the California Code of Regulations, unless otherwise indicated.

\$100 or more, in a semi-annual campaign statement for the reporting period February 18, 2001 through June 30, 2001, filed on October 12, 2001, in violation of section 84211, subdivision (f).

COUNT 4: Respondents De La Torre and Families for De La Torre failed to disclose required information for six persons to whom an expenditure of \$100 or more was made, in a semi-annual campaign statement for the reporting period February 18, 2001 through June 30, 2001, filed on October 12, 2001, in violation of section 84211, subdivision (k).

COUNT 5: Respondents De La Torre and Families for De La Torre failed to file a semi-annual campaign statement for the reporting period July 1, 2001 through December 31, 2001, by the January 31, 2002 due date, in violation of section 84200, subdivision (a).

COUNT 6: Respondents De La Torre and Families for De La Torre failed to file a semi-annual campaign statement for the reporting period January 1, 2002 through June 30, 2002, by the July 31, 2002 due date, in violation of section 84200, subdivision (a).

COUNT 7: Respondents De La Torre and Families for De La Torre failed to file a semi-annual campaign statement for the reporting period July 1, 2002 through December 31, 2002, by the January 31, 2003 due date, in violation of section 84200, subdivision (a).

COUNT 8: Respondents De La Torre and Families for De La Torre failed to file a semi-annual campaign statement for the reporting period January 1, 2003 through June 30, 2003, by the July 31, 2003 due date, in violation of section 84200, subdivision (a).

COUNT 9: On or about October 28, 2004, Respondent Maribel De La Torre failed to file a statement of intention to be a candidate for City Council prior to the solicitation or receipt of a contribution in connection with the March 8, 2005 election, in violation of section 85200.

COUNT 10: Respondents Maribel De La Torre and Families for Maribel De La Torre failed to file a semi-annual campaign statement for the reporting period February 20, 2005 through June 30, 2005, by the July 31, 2005 due date, in violation of section 84200, subdivision (a).

## PROCEDURAL HISTORY

On February 23, 2006, the Enforcement Division initiated an enforcement action against Respondent De La Torre by serving her, at her mailing address, with a Report in Support of a Finding of Probable Cause (“probable cause report”) by certified mail, return receipt requested. On or about March 21, 2006, the Enforcement Division received from the U.S. Post Office, the original packet of material with the unsigned return receipt, marked as unclaimed. Pursuant to section 83115.5, service of the probable cause report was made on Respondent De La Torre the date the mail with the unsigned return receipt was returned by the post office. Along with the probable cause report, Respondent was also served with an information packet informing Respondent that she had 21 days in which to request a probable cause conference and to file a written response to the probable cause report. Respondent De La Torre did not request a probable cause conference, nor did she submit a written response to the probable cause report.

On May 9, 2006, the Enforcement Division filed an Ex Parte Request for a Finding of Probable Cause and an Order that an Accusation Be Prepared and Served, and sent a copy to Respondent at her mailing address. On May 15, 2006, Executive Director Mark Krausse issued an Order Finding Probable Cause (see “Exhibit 1”) as to the 10 counts alleged in the probable cause report. A copy of the order was sent to Respondent’s mailing address.

Pursuant to the Administrative Procedure Act (the “APA”),<sup>2</sup> a respondent is entitled to a hearing on the merits of an Accusation if the respondent files a Notice of Defense within 15 days after service of the Accusation. (Section 11506.) The APA further provides that a respondent’s failure to file a Notice of Defense within 15 days after service of an Accusation constitutes a waiver of the respondent’s right to a hearing. (Section 11506, subdivision (c).) A default decision may be issued if the respondent fails to file a Notice of Defense within 15 days of service of the Accusation. (Section 11520, subdivision (a).)

On June 23, 2006, the Accusation in this matter issued against Respondent. Section 11505, subdivision (c) provides that the Accusation and accompanying information may be sent to the respondent by any means selected by the agency, but that no order adversely affecting the rights of the respondent shall be made by the agency in any case unless the respondent has been served personally or by registered mail as set forth in section 11505.

The Enforcement Division employed the services of a process-serving company in Ventura County to attempt personal service of the Accusation on Respondents. On July 16, 2006, the Accusation was personally served on Respondent De La Torre individually and on behalf of Respondent Committee. (A copy of the proof of service is attached

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<sup>2</sup> The California Administrative Procedure Act, which governs administrative adjudications, is contained in sections 11370 through 11529 of the Government Code.

hereto as Exhibit 2 and incorporated herein by reference.) Along with the Accusation, the Enforcement Division served Respondent De La Torre with a “Statement to Respondent” which notified Respondents that they could request a hearing on the merits and warned that, unless a Notice of Defense was filed within fifteen days of service of the Accusation, Respondents would be deemed to have waived their right to a hearing. Respondent De La Torre failed to file a Notice of Defense within the statutory time period.

On October 3, 2006, Commission Counsel Margaret E. Figeroid sent a letter to Respondents informing them that this matter would be submitted for a Default Decision and Order at the Commission’s public meeting scheduled for November 14, 2006. A copy of the Default Decision and Order, and this accompanying Exhibit 1, was included with the letter.

## **SUMMARY OF THE LAW**

An express purpose of the Act, as set forth in section 81002, subdivision (a), is to ensure that receipts and expenditures affecting election campaigns are fully disclosed to the public, so that voters may be better informed, and improper practices may be inhibited. To that end, the Act sets forth a comprehensive campaign reporting system designed to accomplish this purpose of disclosure.

### **Duty to File a Statement of Intention to be a Candidate**

Section 85200 requires that prior to the solicitation or receipt of any contribution or loan, an individual who intends to be a candidate for an elective office, such as city councilmember, shall file an original statement of intention to be a candidate (Form 501) with the same filing officer and in the same location as the individual would file an original campaign statement.

### **Duty to File Semi-Annual Campaign Statements**

Section 82013, subdivision (a) defines a “committee” as any person or combination of persons who directly or indirectly receives contributions totaling \$1,000 or more in a calendar year. This type of committee is commonly referred to as a “recipient” committee. Under section 82016, subdivision (a), a recipient committee that is controlled directly or indirectly by a candidate is a “controlled committee.”

Section 84200, subdivision (a) requires candidates and their controlled committees to file two semi-annual campaign statements each year. The first semi-annual campaign statement, which covers the first half of the year, must be filed by July 31 of the same year. The second semi-annual campaign statement, which covers the second half of the year, must be filed by January 31 of the following year. In any semi-annual period in which a committee is required to file pre-election campaign statements, the reporting period covered by the semi-annual campaign statement for that period is shortened from six months to the period between the closing date of the last pre-election campaign statement and the end of the semi-annual reporting period. All filing

obligations continue until a candidate terminates the committee by filing a statement of termination (Form 410). (Sections 82013 and 84214; regulation 18404.)

### **Duty to Disclose Information Regarding Contributions and Expenditures of \$100 or More**

Section 84211, subdivision (f) requires a candidate and his or her controlled committee to report on each campaign statement, the following information about a person if the cumulative amount of contributions received from that person is \$100 or more and a contribution has been received from that person during the reporting period covered by the campaign statement: (1) the contributor's full name; (2) the contributor's street address; (3) the contributor's occupation; (4) the name of the contributor's employer, or if self-employed, the name of the contributor's business; (5) the date and amount of each contribution received from the contributor during the reporting period; and (6) the cumulative amount of contributions received from the contributor.

Section 84211, subdivision (k) requires a candidate and his or her controlled committee to disclose certain information about a person in a campaign statement, if an expenditure of \$100 or more has been made to that person during the reporting period covered by the campaign statement, including: (1) the payee's full name; (2) the payee's street address; (3) the amount of each expenditure; and (4) a brief description of the consideration for which each expenditure was made.

### **SUMMARY OF THE FACTS**

The investigation of this matter arose as a result of a non-filer enforcement referral from the City of San Fernando City Clerk's Office filed with the Commission on May 24, 2002, after the city clerk provided Respondent De La Torre with three verbal notices on February 2, 2002, March 2, 2002, and May 2, 2002, and two written notices on January 7, 2002, and March 25, 2002, requesting that she file Respondent Committee's semi-annual campaign statement for the period July 1, 2001 through December 31, 2001. According to campaign statements on file with the City of San Fernando City Clerk's Office, Respondents received approximately \$22,125 in contributions and made approximately \$15,125 in expenditures in connection with the March 6, 2001 election, and received approximately \$25,500 in contributions and made approximately \$26,800 in expenditures in connection with the March 8, 2005 election.

#### **COUNTS 1, 5 – 8, and 10**

#### **Failure to Timely File Semi-Annual Campaign Statements**

Respondents De La Torre and Committee had a continuing duty to timely file semi-annual campaign statements under section 84200, subdivision (a) until Respondent Committee terminated.

#### Count 1

According to records on file with the San Fernando City Clerk's Office, Respondents De La Torre and Committee failed to file the post-election semi-annual campaign statement for the reporting period from February 18, 2001 through June 30, 2001, by the July 31, 2001 due date. The campaign statement for that reporting period was date stamped as being received by the city clerk on October 12, 2001, 73 days after the due date.

By failing to file the semi-annual campaign statement for the reporting period from February 18, 2001 through June 30, 2001, by the July 31, 2001 due date, Respondents De La Torre and Committee violated section 84200, subdivision (a).

#### Count 5

According to records on file with the San Fernando City Clerk's Office, Respondents De La Torre and Committee failed to file the semi-annual campaign statement for the reporting period from July 1, 2001 through December 31, 2001, by the January 31, 2002 due date. The campaign statement for that reporting period was date stamped as being received by the city clerk on October 30 2003, 637 days after the due date.

By failing to file the semi-annual campaign statement for the reporting period from July 1, 2001 through December 31, 2001, by the January 31, 2002 due date, Respondents De La Torre and Committee violated section 84200, subdivision (a).

#### Count 6

According to records on file with the San Fernando City Clerk's Office, Respondents De La Torre and Committee failed to file the semi-annual campaign statement for the reporting period from January 1, 2002 through June 30, 2002, by the July 31, 2002 due date. The campaign statement for that reporting period was date stamped as being received by the city clerk on October 30, 2003, 456 days after the due date.

By failing to file the semi-annual campaign statement for the reporting period from January 1, 2002 through June 30, 2002, by the July 31, 2002 due date, Respondents De La Torre and Committee violated section 84200, subdivision (a).

#### Count 7

According to records on file with the San Fernando City Clerk's Office, Respondents De La Torre and Committee failed to file the semi-annual campaign statement for the reporting period from July 1, 2002 through December 31, 2002, by the January 31, 2003 due date. The campaign statement for that reporting period was date

stamped as being received by the city clerk on October 30, 2003, 272 days after the due date.

By failing to file the semi-annual campaign statement for the reporting period from July 1, 2002 through December 31, 2002, by the January 31, 2003 due date, Respondents De La Torre and Committee violated section 84200, subdivision (a).

#### Count 8

According to records on file with the San Fernando City Clerk's Office, Respondents De La Torre and Committee failed to file the semi-annual campaign statement for the reporting period from January 1, 2003 through June 30, 2003, by the July 31, 2003 due date. The campaign statement for that reporting period was date stamped as being received by the city clerk on October 30, 2003, 91 days after the due date.

By failing to file the semi-annual campaign statement for the reporting period from January 1, 2003 through June 30, 2003, by the July 31, 2003 due date, Respondents De La Torre and Committee violated section 84200, subdivision (a).

#### Count 10

According to records on file with the San Fernando City Clerk's Office, Respondents De La Torre and Committee failed to file the post-election semi-annual campaign statement for the reporting period from February 20, 2005 through June 30, 2005, by the July 31, 2005 due date. The campaign statement for that reporting period was date stamped as being received by the city clerk on September 2, 2005, 32 days after the due date.

By failing to file the semi-annual campaign statement for the reporting period from February 20, 2005 through June 30, 2005, by the July 31, 2005 due date, Respondents De La Torre and Committee violated section 84200, subdivision (a).

### COUNT 2

#### **Failure to Disclose Occupation and Employer Information for Contributors of \$100 or more**

Respondents De La Torre and Committee had a duty to disclose in campaign statements the occupation and employer of any person whose cumulative amount of contributions totaled \$100 or more and a contribution was received from that person during the reporting period covered by the campaign statement.

On October 12, 2001, according to records maintained by the City of San Fernando City Clerk's Office, Respondents De La Torre and Committee filed a semi-annual campaign statement for the reporting period February 18, 2001 through June 30, 2001. This campaign statement reflects that Respondent Committee received six

contributions of \$100 or more from individuals, totaling \$1,700. The semi-annual campaign statement also reflects that Respondents De La Torre and Committee failed to report required occupation and employer information for these six contributors. For each contribution not properly reported on the semi-annual campaign statement, the following table reflects the date the contribution was received, the source, and the amount of the contribution.

| <b>Receipt Date</b> | <b>Name of Contributor</b> | <b>Amount</b>  |
|---------------------|----------------------------|----------------|
| 02/24/01            | Anna Archambean            | \$ 100         |
| 02/24/01            | Pablo Diaz                 | 100            |
| 02/24/01            | Bruce Kates                | 500            |
| 02/25/01            | Ethel Fowler Trust         | 250            |
| 02/25/01            | Steven Veres               | 500            |
| 02/26/01            | Randy Kates                | 250            |
| <b>Total</b>        |                            | <b>\$1,700</b> |

By failing to report required occupation and employer information for six individuals who contributed \$100 or more, Respondents De La Torre and Committee violated section 84211, subdivision (f).

### COUNT 3

#### **Failure to Properly Itemize Contributions of \$100 or More**

Respondents De La Torre and Committee had a duty to report required information for contributions of \$100 or more made to Respondent Committee.

On October 12, 2001, according to records maintained by the City of San Fernando City Clerk's Office, Respondents De La Torre and Committee filed a semi-annual campaign statement for the reporting period February 18, 2001 through June 30, 2001. This campaign statement reflects that Respondent Committee received seven contributions of \$100 or more, totaling \$1,650 for which Respondents De La Torre and Committee failed to disclose the contributors' street addresses as required by the Act. For each contribution not properly reported on the semi-annual campaign statement, the following table reflects the date the contribution was received, the source of the contribution, and the amount of the contribution.

| <b>Receipt Date</b> | <b>Name of Contributor</b> | <b>Amount</b>  |
|---------------------|----------------------------|----------------|
| 02/23/01            | Citizens for Munoz         | \$ 300         |
| 02/24/01            | Anna Archambean            | 100            |
| 02/24/01            | Pablo Diaz                 | 100            |
| 02/25/01            | Ethel Fowler Trust         | 250            |
| 02/25/01            | Steven Veres               | 500            |
| 03/04/01            | Victor's Transmissions     | 150            |
| 06/20/01            | Irwin Rosenberg – Laidlaw  | 250            |
| <b>Total</b>        |                            | <b>\$1,650</b> |



By failing to properly report required information for seven contributions of \$100 or more, Respondents De La Torre and Committee violated section 84211, subdivision (f).

COUNT 4

**Failure to Properly Itemize Expenditures of \$100 or More**

Respondents De La Torre and Committee had a duty to report required information for any campaign expenditure of \$100 or more made by Respondent Committee.

On October 12, 2001, according to records maintained by the City of San Fernando City Clerk's Office, Respondents De La Torre and Committee filed a semi-annual campaign statement for the reporting period February 18, 2001 through June 30, 2001. This campaign statement reflects that Respondent Committee made six expenditures of \$100 or more, totaling \$7,163.57, for which Respondents De La Torre and Committee failed to disclose street addresses of the payees as required by section 84211, subdivision (k). For each payee not properly reported on the semi-annual campaign statement, the following table reflects the recipient of the payment and the amount of the expenditure.

| <b>Name of Recipient</b> | <b>Amount</b>     |
|--------------------------|-------------------|
| Home Depot               | \$ 114.19         |
| Advanced Direct Mail     | 2,372.64          |
| Cingular Wireless        | 601.74            |
| Inkspot Printers         | 3,244.00          |
| Political Data, Inc.     | 495.00            |
| Verizon                  | 336.00            |
| <b>Total</b>             | <b>\$7,163.57</b> |

By failing to properly itemize required information for six expenditures of \$100 or more, Respondents De La Torre and Committee violated section 84211, subdivision (k).

COUNT 9

**Failure to File Candidate Statement of Intention Prior to Soliciting and Receiving Contributions**

Respondent De La Torre had a duty to file a statement of intention to be a candidate for city council prior to the solicitation or receipt of any contribution in connection with her election to that office.

Respondent Committee's campaign statement for reporting period from July 1, 2004 through December 31, 2004, filed with the City of San Fernando City Clerk's Office on January 31, 2005, reflects that Respondents De La Torre and Committee received a \$1,000 contribution from Frank Muniz on October 28, 2004. Respondents De

La Torre and Committee subsequently received contributions totaling approximately \$24,550 in connection with the March 8, 2005 city election. According to the records on file at the San Fernando City Clerk's office, Respondent De La Torre did not file a candidate statement of intention prior to soliciting or receiving these contributions.

By failing to file a statement of intention to be a candidate for city council in the March 8, 2005 election prior to soliciting or receiving contributions for that specific term of office, Respondent De La Torre violated section 85200.

## **CONCLUSION**

This matter consists of ten counts, which carry a maximum possible administrative penalty of Fifty Thousand Dollars (\$50,000). In this matter, Respondents failed to timely file campaign statements and disclose contributor and expenditure information. Additionally, Respondent De La Torre did not file her statement of intention to be a candidate for the March 8, 2005 election.

Regarding Counts 1, 5 – 8, and 10, Respondents failed to timely file semi-annual campaign statements. Failure to timely file a campaign statement is a serious violation of the Act, because it deprives the public of important information about a candidate and committee's contributors and financial activities. Additionally, Respondents actions in not timely filing six semi-annual campaign statements demonstrate a pattern of misconduct. Even after being apprised of the violations set forth in Counts 1, 5, 6, 7, and 8, Respondents failed to voluntarily file the delinquent statements. Respondent De La Torre only complied when Enforcement Division staff expressly directed her to file by a date certain. Respondent De La Torre also received a warning letter dated August 5, 2004, for failure to timely file her 2002 annual Statement of Economic Interests, which was ultimately filed 213 days late, also in response to Enforcement Division staff's directive. However, as Respondent De La Torre's two campaigns for city council raised a relatively small amount of money, and the fact that she paid a late filing penalty of \$3,300 imposed by the city clerk, an administrative penalty that is somewhat less than the maximum penalty is appropriate. Accordingly, imposition of an administrative penalty of \$7,500 is appropriate for these violations of the Act.

Regarding Counts 2 – 4, Respondents failed to disclose required information regarding contributors and expenditures of \$100 or more made in connection with the March 6, 2001 election. Respondents' failure to disclose this information in the post-election semi-annual campaign statement due after the election is serious, because a large amount of Respondent Committee's activity took place during this period, which the public was deprived of seeing. The public would be most apt to view this campaign statement because it reflected Respondent Committee's activity that occurred immediately before and after the election. As such, a fine of \$3,500 for these three violations is justified.

Regarding Count 9, Respondent failed to file a statement of intention to be a candidate for city council in the March 8, 2005 election. Respondent De La Torre had

direct knowledge of this requirement, as she had not timely filed her statement of intention to be a candidate in the March 6, 2001 election, and the city clerk ultimately directed her to file. Yet, Respondent De La Torre still failed to file a statement of intention to be a candidate for the March 8, 2005 election. Therefore, a penalty of \$1,500 is appropriate for this violation.

Accordingly, the facts of this case, and the mitigating and aggravating circumstances addressed herein, justify imposition of a total administrative penalty of Twelve Thousand Five Hundred Dollars (\$12,500).